

OFFICE OF  
THE ATTORNEY GENERAL



STATE OF UTAH

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JOSEPH E. TESCH  
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mini file (Utelite)  
VB  
CL LMB  
S. Johnson  
m/043/004

September 21, 1989

Robert W. Adkins  
ADKINS & CHRISTIANSEN  
P.O. Box 660  
Coalville, Utah 84107

Dear Bob:

In response to your letter dated September 19, 1989, it seems that some clarification of the Division's decision to go forward with the September 28th hearing is necessary.

First, let us not forget that the reason for the upcoming hearing is to consider Utelite's request for Board review of the Division's determination that Utelite's operation is subject to the requirements of the Utah Mined Land Reclamation Act. The fact that the Division has resolved to go forward on Utelite's request for a hearing in no way changes the character of the original petition.

Second, as I stated in my letter of September 1, 1989, the Division did not, and still does not, have enough information to determine whether a self bond for Utelite would be supportable. As I explained to you on September 15th, the Division is not comfortable with accounting procedures used to generate the financial data submitted in support of the request for a self bond. In addition, surface owner support for the proposed landfill is essential since, without it, the landfill may not become a reality. Until the Division is satisfied with the probability that the landfill will occur, it cannot grant a variance to the reclamation responsibility. Further, if the variance is not granted, the reclamation bond will increase thus increasing the scrutiny of the financial data used to support a self bond.

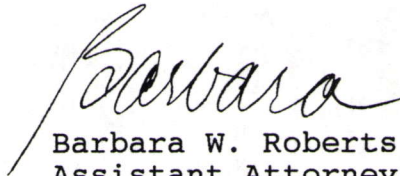
The Division is not foreclosing the possibility of a self bond for Utelite. It simply needs more time and information to make a decision as to whether to support that form of surety before the Board which then makes the final determination as to whether a self bond is an acceptable form of surety.

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The original petition challenges the State's authority to regulate Utelite's operation. This matter has been continued several times and, as a result, the question of jurisdiction has not been answered. The Division wishes to have the matter resolved.

Please contact me if you would like to discuss this further.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Barbara".

Barbara W. Roberts  
Assistant Attorney General

cc: Dianne R. Nielson  
Lowell P. Braxton